

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED '08 MJ1059

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Magistrate Docket No. 1
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Felix NIETO-Castaneda,

Defendant

COMPLAINT FOR VIOLATION OF:

DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **April 5, 2008** within the Southern District of California, defendant, **Felix NIETO-Castaneda**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Ismael A. Canto

SIGNATURE OF COMPLAINANT

Ismael A. Canto

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **7th** DAY OF **APRIL, 2008**

Ruben B. Brooks

Ruben B. Brooks

UNITED STATES MAGISTRATE JUDGE

HUSA JD

CONTINUATION OF COMPLAINT:
Felix NIETO-Castaneda

PROBABLE CAUSE STATEMENT

On April 5, 2008 at approximately 5:00 P.M., Border Patrol Agent P. Herrera, was working assigned line watch duties in the Imperial Beach area of operations. At approximately 5:10 P.M., dispatch advised Agent Herrera via service radio that Remote Video Surveillance (RVS) operated by the California National Guard had observed a group of individuals climbing over the border fence in an area known as "E-3". This area is located approximately 20 yards north of the U.S./Mexico International Border, and 300 yards east of the San Ysidro, California Port of Entry. This area is commonly used by illegal aliens to further their entry into the United States.

Upon notification Agent Herrera observed three individuals running northbound. Due to the proximity of the international border fence between the United States and Mexico and the RVS observation of individuals climbing the primary fence, Agent Herrera approached the individuals and identified himself as a Border Patrol Agent and performed an immigration inspection of the group.

All three individuals, including one individual later identified as defendant Felix NIETO-Castaneda, admitted to being citizens and nationals of Mexico not in possession of any immigration documents which would allow them to enter or remain in the United States legally. At approximately 5:30 p.m., all individuals, including the defendant, were arrested and transported to the Imperial Beach Border Patrol Station for processing

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **January 12, 2006** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.